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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/678,457	10/03/2000	Godwin Dirk Zwanenburg	PHN 17,665	4571

7590 12/18/2001

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EXAMINER

CINTINS, IVARS C

ART UNIT	PAPER NUMBER
1724	12

DATE MAILED: 12/18/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

SW-12

Office Action Summary	Application No. 09/678,457	Applicant(s) Zwanenburg
	Examiner Ivars Cintins	Art Unit 1724
<p>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</p>		
Period for Reply		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.		
<ul style="list-style-type: none">- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).		
Status		
1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Oct 4, 2001</u>		
2a) <input checked="" type="checkbox"/> This action is FINAL. 2b) <input type="checkbox"/> This action is non-final.		
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11; 453 O.G. 213.		
Disposition of Claims		
4) <input checked="" type="checkbox"/> Claim(s) <u>4-9</u> is/are pending in the application.		
4a) Of the above, claim(s) _____ is/are withdrawn from consideration.		
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.		
6) <input checked="" type="checkbox"/> Claim(s) <u>4-9</u> is/are rejected.		
7) <input type="checkbox"/> Claim(s) _____ is/are objected to.		
8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.		
Application Papers		
9) <input type="checkbox"/> The specification is objected to by the Examiner.		
10) <input type="checkbox"/> The drawing(s) filed on _____ is/are objected to by the Examiner.		
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved.		
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.		
Priority under 35 U.S.C. § 119		
13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d). a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).		
*See the attached detailed Office action for a list of the certified copies not received.		
14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).		
Attachment(s)		
15) <input type="checkbox"/> Notice of References Cited (PTO-892) 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____		
16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)		
17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) <input type="checkbox"/> Other: _____		

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The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 4-9 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The limitation that the restriction provided in the flow path of the solution situated between the outlet of the reservoir and the inlet of the chamber is "adjustable" does not appear to be supported by the disclosure originally filed, and hence constitutes **new matter**. Applicant should note that the disclosure originally filed identifies restriction element 27 as a spring-loaded valve (see page 4, lines 1-2 of the specification), but does not disclose that this element is adjustable.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 4-9 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The terms "(160" (claim 9, line 2), "(70" (claim 9, line 10) and "(270" (claim 9, line 16) appear to be typographical errors which render this claim indefinite. Claims 4-8 depend from claim 9, and are therefore also indefinite.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4, 5, 8 and 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Heskett (U.S. Patent No. 3,831,754). The reference discloses a device comprising all of the structural elements and structural interrelationships recited in claims 4, 5, 8 and 9.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heskett. The reference discloses the claimed invention with the exception of the height of the brine tank outlet with respect to the height of the ion exchange cartridge outlet. However, the relative height of these outlets is not seen to materially affect the overall operation of the reference device, or to produce any new and unexpected result; and is therefore deemed to be an obvious matter of choice in design, insufficient to patentably distinguish claim 6.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heskett in view of Prior (U.S. Patent No. 4,336,134). The primary reference discloses the claimed invention with the exception of the recited brine filter. Prior discloses a similar fluid treating system, and shows a brine tank having a filter (see col. 4, lines 40-47). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of Heskett (e.g. in brine reservoir 22 adjacent opening 186 and/or 192) with the brine filter of Prior, in order to obtain the advantages

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disclosed by this secondary reference for the system of the primary reference.

Applicant's arguments filed October 4, 2001 have been noted and carefully considered but are not deemed to be persuasive of patentability. Applicant argues that Heskett fails to disclose an adjustable restriction between the outlet of the brine reservoir and the inlet of the treatment cartridge. It is pointed out, however, that if Applicant considers a spring-loaded non-return valve to be an "adjustable" restriction, then either spring-loaded check valve 180 or 182, positioned between brine reservoir 22 and cartridge inlet 175 of the Heskett system, is also deemed to be an "adjustable" restriction.

Applicant also argues that Prior does not suggest the presence of a filter in the flow path between the outlet of a brine reservoir and the inlet of a treatment chamber. Again, this argument has been noted and carefully considered, but is not deemed to be persuasive of patentability. It is pointed out that Prior clearly shows a filter (i.e. screen 73) positioned in the flow path between a brine reservoir (i.e. below screen 26) and a treatment chamber (i.e. 8 or 9); and it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of Heskett with a similar brine filter, for the reasons given above.

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (703) 308-3840. The examiner can normally be reached on Monday through Friday from 9:30 AM to 6:00 PM.

The fax phone numbers for this art unit are: (703) 872-9311 for "Official" faxes after Final Rejection; (703) 872-9310 for all other "Official" faxes; and (703) 872-9492 for "Draft" and other "Unofficial" faxes.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Ivars Cintins
Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
December 16, 2001